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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,717	06/20/2003	Mark R. Tweedy	40046-53	5859

7590 04/22/2004

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EXAMINER
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VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/600,717

Applicant(s)

TWEEDY ET AL.

Examiner

Joseph Valenza

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 24-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Claims 1-16 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rudolph et al '821 or Strutz et al '535 in view of Southcott or Rouly et al.

Rudolph et al '821 has a transport 22, a decorator conveyor 14 and grippers 34, 36. Strutz et al '535 has a transport 90, a decorator conveyor 12 and grippers 216. It would have been obvious to modify the gripper conveyor to rotate about an acute axis relative to the vertical position of the articles on the transport conveyor and the horizontal position of the articles on the decorator conveyor as taught by the acute axis for the rotary gripper conveyor 4 of Southcott or 31, 32 of Rouly et al.

With regard to claims 2, etc. concerning pivots mounting the grippers, cam 60, followers 92 and control rods 38 rotate grippers about pivot axis 40 of Rudolph et al '821. Similarly, cam 226, followers 224 and control rods 220 rotate grippers 216 of Strutz et al '535 about the pivot axis along rods 220.

3. Claims 8, 9, 12 and 14 are rejected under 35 U.S.C. 112 as being indefinite due to the lack of a proper antecedent for "pivot" in line 2 of claim 8 and "control" in line 1 of claims 12 and 14.

4. Claim 29 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 24-28 of U.S. Patent No. 6,581,750. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim only differs in obvious variations of breadth and scope.

5. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to 703-872-9306. My normal workweek is Monday through Thursday.

A handwritten signature in cursive script that reads "Joseph Valenza". The signature is written in black ink and is positioned above the printed name and title.

JOSEPH E. VALENZA  
PRIMARY EXAMINER